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IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

FIRST APPEAL No 3449 of 1999

to

FIRST APPEAL No 3502 of 1999

With

First Appeals No.4581 to 4606, 4608 to 4615, 4617 to 4626, 5093 to 5095, 5098 to 5100, 5103 to 5107 of 1999.

For Approval and Signature:

Hon'ble MR.JUSTICE K.R.VYAS

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1. Whether Reporters of Local Papers may be allowed to see the judgements? : YES
2. To be referred to the Reporter or not? : YES
3. Whether Their Lordships wish to see the fair copy of the judgement? : NO
4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO
5. Whether it is to be circulated to the Civil Judge? : NO

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REGIONAL DIRECTOR, EMPLOYEES' STATE INSURANCE CORPORATION

Versus

BABUBHAI KALIDAS

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Appearance:

MR SR SHAH for Employees State Ins.Corpn.

MR MUKUL SINHA for MR SH IYER for the workmen.

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CORAM : MR.JUSTICE K.R.VYAS

Date of decision: 26/10/1999

ORAL JUDGEMENT

1. This group of 108 appeals (54 preferred by the Regional Director of Employees' State Insurance Corporation and 54 preferred by the concerned workmen) under section 82 of the Employees' State Insurance Act,

1948 (hereinafter referred to as 'the Act') arise against the judgments and orders passed by the Employees' State Insurance Court (hereinafter referred to as the 'ESI Court') dated 29.1.1999 whereby the ESI Court assessed the disability of the concerned workmen ranging from 70% to 90%. The workmen have filed appeals claiming that they are entitled to receive compensation for 100% disability. It is the contention of the ESI Corporation that the ESI court could not have assessed the disability at 70% or more, especially when the concerned persons had claimed disability of 40% in their appeal before the Medical Appellate Tribunal.

2. Since both the sides have challenged the common judgments and orders of the ESI Court, with the consent of the learned Counsel appearing for both the sides, both the group of appeals are heard together and are disposed of by this common judgment and order.

3. The concerned workmen were at the relevant time, working in Alembic Glass Industries Limited at Baroda. They were working in Crushing Plant and such other sections where various chemicals and minerals like Dolomite, Silica, Quarry etc. are being crushed and used for manufacturing glass articles. The working environment of the plant is such that the workmen are continuously exposed to the fine particles of minerals present in the atmosphere. Due to inhalation of such mineral particles, the workmen contracted a dreaded disease known as 'Silicosis' making it difficult for the workmen to survive. It is alleged that several workmen of Alembic Glass have succumbed to death on account of Silicosis. It appears that on representations made to the Institution of Occupational Health, a primary investigation and medical examination was held and the disease Silicosis was diagnosed and each of the workmen was issued a certificate to the said effect on or around September 19, 1985. The concerned workmen were thereafter examined by the Medical Board who after examining the workmen, came to the conclusion that there is 0% permanent partial disablement. The concerned workmen, against the assessment of 0% permanent partial disability made by the Medical Board, preferred First Appeal before the Medical Appellate Tribunal under section 54-A(2) of the Act, making a demand for permanent partial disability to the extent ranging from 40% to 90% in a given case by the concerned workmen. However, the Medical Appellate Tribunal, after examining the case papers of the concerned workmen, arrived at the conclusion that there is a permanent partial disability to the extent of 15% to 50% of the concerned workmen. Against the decision of

the Tribunal, the concerned workmen preferred Second Appeals under section 54-A(1) of the Act to the ESI Court. The ESI Court allowed the Second Appeals by quashing and setting aside the judgments and orders passed by the Medical Appellate Tribunal, as well as the Medical Board and assessed the permanent partial disability ranging from 40% to 90% in a given case. Both the sides have produced statements showing percentage of disability assessed by the Medical Board, Medical Appellate Tribunal and the ESI Court in respect of each of the workman. These judgments and orders of the ESI Court are under challenge in these groups of appeals.

4. Mr.S.R.Shah, learned Counsel appearing for the ESI Corporation criticised the judgments of the ESI Court by contending that the conclusion arrived at by the ESI Court is on the basis of general nature of the disease Silicosis without examining any evidence whatsoever or without referring to any medical reports whatsoever to determine as to what according to the documentary evidence on record is the nature, extent and quantum of the disability suffered by the workmen. In the submission of Mr. Shah, merely contracting the disease Silicosis is no ground for awarding any compensation for permanent partial disability unless the actual extent of the disability is determined in accordance with law. By inviting my attention to the provisions of sub-section (15-A) of section 2 which defines "permanent partial disablement", Mr.Shah contended that because the disease of Silicosis is suspected, the extent of reduction of the earning capacity of an employee cannot be determined by reference to the general nature of the disease and its consequences, but it has to be decided on the basis of actual evidence in respect of the employee and the loss of earning capacity of an employee who has contracted the disease of Silicosis and this would vary from person to person, depending upon the constitution of the body of the person concerned, his age, number of years of service put in the department, the extent of the effect of the Silicosis on his lungs, on the basis of the pathological tests of the lungs, radiological tests of the lungs and other medical and clinical tests and they would vary from person to person. Since this aspect has not been considered by the ESI Court, in the submission of Mr.Shah, the judgments and orders of the ESI Court are bad in law and without application of mind. Mr. Shah also made a grievance that the ESI Court has not cared to look at the medical certificates issued by the Special Medical Board as well as the decision given by the Medical Appellate Tribunal which consists of experts on the disease and who have examined the concerned workmen

physically, pathologically and radiologically. Mr. Shah also contended that the ESI Court has erred in the exercise of its jurisdiction in determining the question of disablement and extent of loss of earning capacity, according to Mr. Shah, are required to be determined under section 54 of the Act by the Medical Board and not by the Court. To substantiate this contention, reliance is placed on the decision of this Court in the case of Sureshchandra Vs. Regional Director, First Appeal No. 2660 of 1996 decided on 24.2.1999 by my learned brother Y.B.Bhatt,J.

5. Mr. Mukul Sinha, learned Counsel appearing for the concerned workmen, after inviting my attention to the findings recorded by the learned judge that the workmen had suffered 100% total permanent partial disability, submitted that the ESI Court ought to have held that the workmen are entitled to receive compensation for 100% permanent total disablement. Dr. Sinha also further submitted that the disease Silicosis has been described as an occupational disease in Part III of the Third Schedule to the Act. It is deemed to be an "employment injury" arising out of and in the course of employment as contemplated by section 52-A of the Act and since the Silicosis is an incurable disease, the assessment of permanent partial disability is not provisional but final and, therefore, the consequential benefits to receive disablement benefit for life time are required to be granted.

6. Before I consider the rival submissions, it is necessary to highlight about the disease Silicosis. Before the ESI Court, certain literature have been produced about the Silicosis. In the magazine "Occupational Health", about Silicosis, it is stated as under:-

"Among the occupational diseases, silicosis is the major cause of permanent disability and mortality. It is caused by inhalation of dust containing free silica or silicon dioxide (SiO<sub>2</sub>). It was first reported in India from the Kolar Gold Mines (Mysore) in 1947. Ever since, its occurrence has been uncovered in various other industries e.g. mining industry (coal, mica, gold, silver, lead, zinc, manganese and other metals), pottery and ceramic industry, sand blasting, metal grinding, building and construction work, rock mining, iron and steel industry and several others.

In the mica mines of Bihar, out of 329 miners examined, 34.1 percent were found suffering from silicosis. In a ceramic and pottery industry, the incidence of silicosis was found to be 15.7 percent. The incidence of silicosis depends upon the chemical composition of the dust, size of the particles, duration of exposure and individual susceptibility. The higher the concentration of free silica in the dust, the greater the hazard. Particles between 0.5 to 3 microns are the most dangerous because they reach the interior of the lungs with ease. The longer the duration of exposure, the greater the risk of developing silicosis. It is found that the incubation period may vary from a few months up to 6 years of exposure, depending upon the above factors.

The particles are ingested by the phagocytes which accumulate and block the lymph channels. Pathologically, silicosis is characterised by a dense 'nodular' fibrosis, the nodules ranging from 3 to 4 mm in diameter. Clinically, the onset of the disease is insidious. Some of the early manifestations are irritant cough, dyspnoea on exertion and pain in the chest. With more advanced disease, impairment of total lung capacity (TLC) is commonly present. An x-ray of the chest shows 'snow-storm' appearance in the lung fields. Silicosis is progressive and what is more important is that silicosis are prone to pulmonary tuberculosis, a condition called silicotuberculosis. In recent years, doubts have been raised, whether silico-tuberculosics are really tubercular or purely silicotics. It is because, sputum in silico-tuberculosics rarely shows tubercle bacilli; children and women of silico-tuberculosics do not develop tuberculosis; post-mortem on silicotuberculosics failed to prove the existence of tuberculosis disease, but showed them to be cases of pure silicosis. The radiological evidence in the two conditions is so similar that one is apt to mistake a case of silicotic to be a case of tuberculosis of lungs. The final answer to this question is still awaited.

There is no effective treatment for silicosis. Fibrotic changes that have already taken place cannot be reversed. The only way that silicosis can be controlled (if not altogether eliminated) is by (a) rigorous dust control measures, e.g.

substitution, complete enclosure, isolation, hydroblasting, good house-keeping, personal protective measures and (b) regular physical examination of workers.

Silicosis was made a notifiable disease under the Factories Act, 1948 and the Mines Act, 1952."

In the Harrison's "Principles of Internal Medicine", 12th Edition, Vol. II, about Silicosis, reported in July 1993 issue of Bulletin "Occupational Health & Safety" Silicosis has been described as "A MEGA AIDS." It is described as under:

"The radiological investigations coupled with socio-economic and other associated aspects as emerged out in this sample survey of mine workers revealed a very alarming health scenario of mine workers. A large number of workers were found suffering from silicosis, silico-tuberculosis and tuberculosis. These findings commensurate with the startling fact that there are villages in which young widows of mine workers predominate the women folk since their husbands have died after working in sandstone mines. It is probably because of this widespread health hazard to which mine workers are exposed. The Rajasthan Government has framed strict legislation to protect and compensate the sandstone mine workers way back in 1955. If the health problems of sandstone mine workers is assessed under the existing legal provisions, the silicosis and silico-tuberculosis cases will inflate to as much as 90% as compared to general population. The prevalence of tuberculosis therefore comes to about 120 times in this sample. (personal communication). It is worthwhile to mention that in disease like AIDS, the recorded prevalence of tuberculosis is 500 times more than the general population, which together are a fatal combination. It will, therefore, not be unfair to equate the silicosis with AIDS and label it as 'Mega AIDS' for sandstone working population in respect to tuberculosis. It is strange that silicosis rules are redundant since no worker is examined as per rules."

In the same journal, the article on Silicosis is published with a title "SHADOW OF DEATH". It is stated therein that :

"The nature is centered around the ancient port town of Khambhat and surrounding areas in Gujarat and dates back about 4500 years. Today, what can be seen are the dire conditions the employees work in. Shakabhai, a resident of Shakarpur, one of the towns in Gujarat involved in the Industry, has lost five of his six sons to the trade. They died due to Silicosis contracted while working in the dust filled environs. Gangaba, an 80 year old woman laments the loss of three sons and three grandsons. So workers have died in just one area of Shakarpur in the last five years. The death list for the entire industry is endless. Most of the deaths occur due to inhalation of silica dust produced while grinding and polishing the crude agate stone. The air in these areas is 60 to 90 per cent silica. This accumulates in the lungs of the workers, finally leading an occupational disease called Silicosis. The symptoms of this disease are very much like those of Tuberculosis and is often mistaken for it. Silicosis drastically reduces the vital capacity of the lungs, resulting in death of the patient. There is no known cure for it in Allopathy."

Even though this Article is thought provoking, it is not necessary to refer to the other details given in the Article in this judgment.

7. In view of the aforesaid material on record, it is clear that amongst the occupational diseases, Silicosis is the major cause of permanent disability and mortality and it is caused by inhalation of dust containing silica and silicon dioxide and there is no effective treatment for Silicosis. Fibrotic changes which have already taken place cannot be reversed. It is also clear that Silicosis can be controlled before it is being contracted by rigorous dust control measures or by regular physical examination of the workers, but once it is contracted, there is no effective treatment for it and the person has to die. There is no dispute with regard to the fact that all the 54 workers have been diagnosed as the patients of Silicosis.

8. With this background, let us consider the relevant provisions of law.

Section 2(8) deals with employment injury which defines 'employment injury' as a personal injury to an employee caused by accident or an occupational disease

arising out of and in the course of his employment, being an insurable employment, whether the accident occurs or the occupational disease is contracted within or outside the territorial limits of India.

Section 2(15-A) defines 'permanent partial disablement' to mean such disablement of a permanent nature, as reduces the earning capacity of an employee in every employment which he was capable of undertaking at the time of the accident resulting in the disablement.

Reading these two provisions, it is clear that in the case of permanent partial disability, the disablement must cause a reduction in the earning capacity of the employee and such reduction must be in every employment which was incapable of undertaking at the time of the accident whereas permanent total disablement is that where there is permanent incapacity and that the employee is incapacitated to do the work which he was capable of undertaking at the time of the accident.

Section 52-A deals with occupational disease. The word "Occupational disease" is not defined. However, the Third Schedule prescribes a list of occupational disease. Therefore, the words "Occupational disease" are required to be read with section 52-A and the Third Schedule. Item No.1 of Part C of the Third Schedule deals with Silicosis as an occupational disease which reads as under:-

Occupational disease      Employment

1. Pneumoconioses caused by sclerogenic Work involving mineral dust (silicosis, anthraosis- exposure to the licosis asbestosis) and silico- risk concerned.  
tuberculosis provided with silicosis  
is an essential factor in causing the  
resultant incapacity or death.

Section 54 of the Act deals with the determination of question of disablement and provides that :

"Any question---

- (a) whether the relevant accident has resulted in permanent disablement; or
- (b) whether the extent of loss of earning capacity can be assessed provisionally or finally; or
- (c) whether the assessment of the proportion of the loss of earning capacity is provisional or final; or



(d) in the case of provisional assessment, as to the period for which such assessment shall hold good,

shall be determined by a medical board constituted in accordance with the provisions of the regulations any such question shall hereafter be referred to as the 'disablement question.'

Section 54-A deals with references to medical boards and appeals to medical appeal tribunals and Employees' Insurance Courts. Section 55 is material for our purpose which deals with review of decisions by medical board or medical appeal tribunal and provides that any decision under the Act of the medical board or the medical appeal tribunal may be reviewed at any time by the medical board or the tribunal as the case may be if it is satisfied by fresh evidence that the decision was given in consequence of the non-disclosure or misrepresentation by the employee or any other person of a material fact and also any assessment of the extent of the disablement resulting from the relevant employment injury may also be reviewed by a medical board if it is satisfied that since the making of the assessment, there has been a substantial and unforeseen aggravation of the results of the relevant injury.

Rule 57 of the Employees' State Insurance (Central) Rules, 1950 deals with disablement benefits and inter alia provides that where permanent disablement, whether total or partial, has been assessed provisionally for a limited or finally, the benefit provided under the rule shall be payable for that limited period, or as the case may be, for life. Since it is conceded by the learned Counsel for the Corporation that the workers are entitled to the disablement benefit till life, it is not necessary for me to consider that question. However, in view of this, the finding recorded by the ESI Court that the workers shall be provided with benefits till their service, is required to be set aside and is hereby set aside.

Regulation 74 deals with Occupational disease which inter alia provides that any question whether an employment injury is caused by an occupational disease specified in the Third Schedule to the Act shall be determined by a Special Medical Board which shall examine the disabled person and send a report in such form as may be prescribed by the Director General to the Regional Office stating whether the disabled person suffering from one or more of the diseases specified in the said

Schedule; whether the relevant disease has resulted in permanent disablement; whether the extent of loss of earning capacity can be assessed provisionally or finally and the assessment of the proportion of loss of earning capacity and in case of provisional assessment, the period for which such assessment shall hold good.

9. Keeping in mind the fact of workmen having contracted the disease Silicosis specified as an occupational disease of Part 'C' of the Third Schedule and the aforesaid provisions of the enactments which are undisputedly beneficial to the workmen, brought forth by the Welfare State for the hapless employees, the rival contentions are required to be considered. In the present case, before the ESI Court, both the parties have produced necessary materials by way of evidence. The workmen filed necessary affidavits and produced relevant books/ journals for which reference has been made above. Dr. Jayant Acharya, who was one of the members of the Special Medical Board has also been examined. On behalf of the Corporation, necessary documents, namely the report of the medical board, form no. 16-A filed by the Corporation and the medical certificates of the workmen etc. have been produced. Dr. Jayant Acharya who has been examined by the concerned workmen before the ESI Court, vide Ex. 10, has, in his evidence, given details about the disease Silicosis attracted by the workers of Alembic Glass and Sarabhai Glass Industry in the City of Baroda. According to him, the patients of Silicosis suffer breathing problem. The patients of the said disease are not able to perform hard labour. If no proper treatment is given, the working capacity deteriorates day by day. According to him, the said disease is incurable. The last stage of the disease is known as "Fibrosis". The said stage of Fibrosis can be delayed provided medicines are taken. However, because of the adverse effect, practically medicines are not used. According to him, at what rate the workmen of Crushing Plant can sustain Silicosis depends on the immunity power of the workmen. The possibility of contracting Silicosis increases by inhaling the powder of the dust. According to him, the dust particles deposit in the lungs with the result that the heart weakens and it also affects the liver as well as kidney. The patient is also not in a position to do his work. Day by day, the life span decreases. According to him, Harrison's Principle & Internal Medicine is a standard book as far as the disease Silicosis is concerned. He has assessed the disability of the workmen to the extent of 60% to 70%. There are all possibilities that the patients may die within a year or two. In the cross examination, his attention was

invited to the report of the medical board wherein 20% disability has been assessed, to which he has stated that he is not prepared to say that the same is not correct. In view of this oral as well as documentary evidence on record, the ESI Court recorded a finding that the disease Silicosis is an incurable disease. This being a peculiar disease, even though the ESI Court has recorded that the concerned workmen are entitled to compensation for 100% disability, however, in the final order, the disability was assessed to the extent of 80% to 90%. In any case, on appreciation of evidence on record, once such a finding is recorded, it cannot be contended that it is a case of 'no evidence'. Admittedly, in the instant case, all the 54 workmen contracted Silicosis which is an incurable disease and in the course of time, its adverse effects increase and ultimately leads to death and, therefore, it cannot be contended that the disablement is for a limited period but it continues throughout the life.

10. Once such a finding is recorded, I am of the view that the workmen are entitled to receive compensation for 100% disability. According to the provisions of section 2(15-A) which deals with permanent partial disablement, permanent partial disablement must cause reduction in the earning capacity of the employee in every employment which he was capable of undertaking at the time of the accident resulting into disablement whereas under section 2(15-B), 'permanent total disablement' means such disablement of a permanent nature as incapacitates an employee for all work which he was capable of performing at the time of the accident resulting in such disablement. In other words, the character of disablement is such that a person concerned is not only unable to do work which he was doing at the time of the accident, but any work. In the instant case, all the 54 workmen have contracted Silicosis which is an incurable disease. Considering the fact that Silicosis being a disease wherein it is not possible for the workman to do his daily routine work efficiently and which condition further deteriorates day by day and ultimately results into death, I am of the opinion that the workmen are entitled to receive 100% disablement benefit for the permanent disablement, payable under the Act for the injury to an employee caused by an accident or by occupational disease arising out of and in the course of the employment. The case on hand is not for the assessment of permanent total disablement provisionally, but it is for final assessment, being described as an occupational disease as per the Third Schedule. Therefore, the workmen are entitled to receive 100%

disability benefit for permanent total disablement for life time. Once such a finding is recorded that the workmen have contracted incurable disease of Silicosis, is it necessary to examine the nature, extent and quantum of the disability suffered by the respondents-workmen? and for that, is it necessary to refer the concerned workmen under section 55 of the Act for review to find out whether the disease has aggravated or not ? Mr.Shah, learned Counsel for the ESI Corporation submitted that in view of the provisions of sections 54 and 2(15-B) read with Regulation 74 which provides for determination of the question of disablement by the medical board constituted in accordance with the provisions of the Regulations, contrary to their report, if it is held that the workmen have contracted Silicosis and, therefore, they are entitled to 100% disability benefit, would amount to ignoring those provisions. In the submissions of Mr. Shah, it is for the medical board to decide the extent of the disease. Mr.Shah further submitted that there is nothing on record to show that all the 54 workmen are totally incapacitated and, therefore, the case on hand requires remand. He has relied upon the decision of this Court in the case of Mahmud Abdulla Vs. ESI Corporation, reported in 1984 LIC 1717. It was a case wherein an injured person sustained an employment injury on his right leg and on being referred to the medical board, the medical board assessed his loss of earning capacity at 9%. It was set aside by the Medical Appellate Tribunal. The Medical Appellate Tribunal did not speak anything about what injuries were actually suffered by the appellant and ran to give a conclusion that the present condition of the appellant was unrelated to original industrial injuries. In further appeal to the Employees' State Insurance Court under section 54A (2)(i) of the Act, the judge noticed the basic lacuna in the reports of the Medical Officers, but accepted the report of the Medical Appeal Tribunal on the ground that the appellant failed to examine a medical man to challenge the findings of the Medical Appeal Tribunal. The Court held as under:-

"xxxx the lower Appellate Judge had not correctly approached the problem. It was clear from the judgment of the lower Appellate Judge that even without the assistance of a medical witness examined by the appellant, it did appear to him that the reports of the statutory authorities were not satisfactory and if so he could not have agreed with it only because the appellant had not examined a medical witness in his support. Thus, the wrong approach on the part of the lower

Appellate Judge had resulted in a gross miscarriage of justice to the appellant, an extremely poor workman, who claimed that he had suffered a total disability resulting in 90 per cent loss of earning capacity and had been assessed at only 9 per cent loss of earning capacity."

In this view of the matter, this Court held that the Insurance Court could have remanded the matter for further consideration.

The aforesaid judgment was delivered in the facts of that case. However, as recorded earlier, in the present case, the ESI Court considered oral as well as documentary evidence produced before it and recorded a specific finding that Silicosis is an incurable disease and thereafter decided the question of disability. In my opinion, this was within the powers of the ESI Court to record the statement. The finding recorded by the ESI Court is based on the evidence including the evidence of Dr. Acharya who was the member of the board. Therefore, it cannot be contended that it was merely an ipse dixit of the Court. In this view of the matter, even the judgment delivered by my learned brother Y.B.Bhatt in First Appeal No. 2660 of 1996 in the case of Sureshchandra Jani Vs. Regional Director, ESIC will have no application.

11. True, under section 54 of the Act, the medical board can determine the question of disablement whenever such a question arises as to whether the relevant accident has resulted into permanent disablement or the extent of loss of earning capacity provisionally or finally and the assessment of the proportion of the loss of earning capacity etc. and even section 55 of the Act gives power to the medical board and the Medical Appellate Tribunal to review their own previous decisions once it is pointed out that the injury or the disease has aggravated. Ordinarily, it should be left to the discretion of the medical board to determine the question involved under section 54 and in a given case, under section 55, but there are cases and cases of accident and disease. As far as accidental injuries are concerned, Schedule II of the Act prescribes for description of injuries and percentage of loss of earning capacity. The medical board can certainly determine the question of disablement in the light of what is provided under the Act. Even after determining the said question, if at all there is any aggravation of the injury, the concerned workman can certainly apply for review under section 55.

Similarly, in the case of occupational disease also, it can be decided under section 54 and can also be reviewed under section 55, but once it is declared that the disease is incurable, then is it necessary to determine the question of disablement in a case of incurable disease ? It is a permanent disablement and the patient is bound to reduce his earning capacity. Since the employee has contracted an incurable disease, it is bound to aggravate and, therefore, all these questions which are required to be determined by the medical board or the Medical Appellate Tribunal, it is nothing but an empty formality. The only exception that can be made in the case of an incurable disease is only when a finding is recorded that such a disease is controllable. In the present days, when medical facilities are available, all the diseases are practically curable. However, there are still certain diseases for which no cure is invented. From the evidence on record, it is clear that the disease Silicosis is one of such diseases. In the circumstances, even though there are certain provisions which are required to be followed, but by asking the patient suffering from an incurable disease to apply before the medical board to find out as to whether he has suffered a permanent disablement or not or whether he has lost his earning capacity or not and whether his disease has aggravated or not is nothing but a cruel joke to him. It is stated at the bar that out of 54 workers who sustained Silicosis, 14 have already expired during the pendency of the proceedings. This would go to suggest that Silicosis is incurable and uncontrollable. This Court can't shut its eyes to the seriousness of the disease and insists that the workers must follow the provisions by applying again and again to the medical board to review their decision when the death is inevitable. This Act which is a benevolent legislation is for the benefit of the workmen and all the interpretations of the enactments are JJJJJJJJJJJJJJJJJJJ

Court must desist itself from accepting technical contentions. Thus, none of the submissions of Mr. Shah impressed me and they are required to be rejected.

12. In the result, all the appeals preferred by the workmen are partly allowed and it is held that they are entitled to receive 100% compensation for the permanent total disablement, payable for life time. All the appeals preferred by the workmen are partly allowed with costs althroughout. The rest of the directions given by the ESI Court shall remain as they are.

All the appeals filed by the Employees' State  
Insurance Corporation are dismissed with costs.

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